IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 9951 of 1998

Between:

M.Rama Devi, Personal Assistant,

O/o F.A. &n C.A.O., South Central Railway, SECUNDERABAD.

..... PETITIONER

AND

1. Govt. OF Andhra PRADESH, Reptd. BY PRINCIPAL ECRETARY TO

Government, social welfare (CV-2) department, secretariat Buildings,

Hyderabad.

2. Collector anD district MAGISTRATE, Rangareddy district, Khairatabad,

Hyderabad.

3. Joint Collector, Rangareddy District, Khairatabad, Hyderabad.

4. Director of Tribal Welfare, Telugu Samkshema Bhavan, Masab Tank,

Hyderabad.

5. Dy.Chief Accounts Officer (Gen.) O/o F.A. & C.A.O. South Central

Railway, Rail Nilayam, Secunderabad.

…. Respondents.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or an order or a direction more particularly one in the natureof writ of Mandamus declaring the order dated 30-03-1998 of the 1st respondent in G.O.Rt.No.169 confirming the proceedings of respondent No.2 in No. C5/9766/90 as highly illegal, arbitrary and set aside the same and consequently declare the proceedings No. C5/9766/90 dated 09-05-1995 of

the Collector and District Magistrate, R.R.District as illegal, arbitrary and violative of principles ofnatural justice and set aside the same and pass such other order or orders as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.G.V.R.S.VARA PRASAD

Counsel for the respondents 1 to 4: G.P. for Social Welfare.

Counsel for the Respondent No.5: MR.GOURI SHANKAR SANGHI

The Court made the following :

O R D E R:

The writ petition is field seeking a Mandamus declaring the proceedings in G.O.Rt.No.169, dated 30-03-1988 issued by the 1st respondent confirming the proceedings No.C5/9766/90

dated 9-5-1995 of the 2nd respondent as arbitrary and illegal.

It is the case of the petitioner that she belongs to Kondakapu caste which is enumerated as one of the castes in the Schedule Tribe. Her father migrated from Neelwadi village erstwhile Srikakulam District (now in Koraput District of Orissa State) some time prior to 1930. She was borne and brought up and educated in Hyderabad. It is stated that the father of the petitioner expired in the year 1978. Her school records show that she belongs to Konda kapu caste, which is enumerated as Scheduled Tribe. While she was studying in Kamala Nehru Polytechnic for Women, she was in receipt of Scheduled Tribe Scholarship from the Social Welfare Department. She further asserted that both her parents belong to Kondakapu caste. On 15-03-1982 she joined in Indian Railways (SCR) as Junior Stenographer having been selected in the competitive examination conducted by Railway Service Commission. At the time of joining into service, she had produced community certificate dated 18-08-1991 issued by the Tahsildar, Vallabhnagar Taluk, Rangareddy District and also the Community certificate

dated 12-05-1980 issued by the Deputy Secretary to Government, Revenue Department, Government of Andhra Pradesh to the effect that she belongs to Kondakapu community which is enumerated as a Scheduled Tribe. Subsequently,

in the year 1982, the petitioner was promoted as Senior Stenographer in the reserved quota. She was further promoted as Confidential Assistant in the scale of Rs.1640-2900 with effect from 14-07-1986. Again, when the name of the petitioner was under consideration for appointment as Confidential Assistant (regular appointment) she was asked to produce community certificate. She produced the community certificate dated 13-02-1982 issued by the Mandal Revenue Officer, Malkajgiri to the effect that she belongs to Kondakapu caste which is recognized as a Scheduled Tribe. While the matter stood thus, the General Manager, South Central Railway, Secunderabad, referred the case of the petitioner to the District Collector Ranga Reddy District requesting him to conduct necessary verification into her social status claim. Thereupon a show cause notice No.C5/9766/90 dated 18-01-1992 was issued to the petitioner by the District Collector Ranga Reddy District calling upon to show cause within seven days as to why the caste certificate dated 18-08-1981 issued by the Tahsildar, Vallabh Nagar Taluk and certificate dated 13-02-1989 issued by the Mandal Revenue Officer Malkajgiri should not be cancelled and criminal action should not be initiated for giving false information and obtaining certificate. In the show cause notice, it was also stated that the Director of Tribal welfare by letter dated 06-05-1987 reported to the General Manager, South Central Railway that the petitioner does not belongs to Kondakapu and that the Revenue Divisional Officer, Chevella Division in his reference dated 16-11-1991 reported that originally the petitioner was native of Neelwadi village of Srikakulam District. It is also stated in the said show cause notice that the caste certificate has to be obtained from the Revenue Divisional Officer, in whose jurisdiction her native place comes and that she obtained the certificate from the Tahsildar, Vallabhnagar (now Malkajgiri) on a false representation. Pursuant to the said show cause notice, the petitioner addressed a letter dated 09-03-1992 to the Collector, R.R.District, Hyderabad requesting him to supply copies of certain documents relied upon in the show cause notice to enable her to submit her explanation. According to her, no such documents were furnished. However, the District Collector without furnishing the said documents and without considering her explanation passed the impugned order. Aggrieved by the same, the petitioner preferred an appeal before the 1st respondent-Government of Andhra Pradesh, Social Welfare Department *inter alia* contending that she was not supplied with the documents which were relied upon in the show cause notice in spite of there being a request made by her. But the appellate authority did not consider the ground raised by the petitioner and

confirmed the order passed by the District Collector, Ranga Reddy District. Aggrieved by the same, the petitioner preferred the present writ petition.

A detailed counter affidavit has been filed by the respondents, denying the allegations made by the petitioner herein.

I have given my earnest consideration to the respective submissions made on either side and gone through the material available on record.

There is no necessity to go into all other details since the assertion made by the petitioner that when she asked to furnish the documents relied upon by the District Collector on the basis of which the said show cause notice was issued, the same were not furnished and the said allegation is not disputed in the counter filed by the respondents, though it was categorically asserted by the petitioner. It is the basic principles of natural justice that when a show cause notice was issued basing on the report of the Revenue Divisional Officer, the same should have been furnished to the petitioner to enable her to submit a her explanation to the same. It appears that no such course of action was adopted by the respondents. Apart from this, it is not the case of the respondents that in the enquiry conducted by the Revenue Divisional Officer, the petitioner was permitted to participate. Therefore, the enquiry itself was conducted behind the back of the petitioner and further the said enquiry report was not made available to the petitioner for the purpose of defending her case effectively. The denial of such an opportunity to the petitioner is a gross violation of principles of natural justice. Therefore, the order of the 2nd respondent in his proceedings dated 09-05-1995 as confirmed by the 1st respondent-Government in G.O.Rt.No.169, dated 30-03-1998 are liable to be set aside. Accordingly, set aside and the writ petition is allowed.

However, this order will not preclude the authorities from conducting any enquiry as contemplated under the Andhra Pradesh (SC, ST& BCs) Regulation of Issue of Community Certificates Act, 1993 and passing appropriate orders in accordance with law. No costs.

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29-06-2005

Mjl/*

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Wednesday the twenty ninth day of June, two thousand and five.

Assistant Registrar.

To,

1. The Principal Secretary to Government, Social Welfare (CV-2)

Department, Secretariat Buildings, Hyderabad.

2. The Collector and District Magistrate, Rangareddy District,

Khairatabad, Hyderabad.

3. The Joint Collector, Rangareddy District, Khairatabad, Hyderabad.

4. The Director of Tribal Welfare, Telugu Samkshema Bhavan, Masab

Tank, Hyderabad.

5. The Dy.Chief Accounts Officer (Gen.) O/o F.A. & C.A.O. South Central

Railway, Rail Nilayam, Secunderabad.

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